

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

No. CR S-96-0555 WBS PAN P

vs.

RICHARD N. MATTAROLO,

Movant.

ORDER

_____/

Movant, a federal prisoner proceeding pro se, has filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. On March 24, 2006, the magistrate judge issued findings and recommendations recommending that respondent's November 12, 2004 motion to dismiss be granted and movant's August 20, 2004 § 2255 motion be dismissed. On April 21, 2006, the findings and recommendations were adopted in full by this district court. On August 11, 2006, movant filed a motion styled as a motion to "withdraw" the district court's order. Therein, movant contends that he was not served with the March 24, 2006 findings and recommendations. Review of the record in this action supports this contention.¹

¹ The record reflects that on March 24, 2006, the Clerk of the Court served on movant a copy of the magistrate judge's September 1, 2004 order directing respondent to answer movant's § 2255 motion instead of the findings and recommendations.

1 Good cause appearing, IT IS HEREBY ORDERED that:

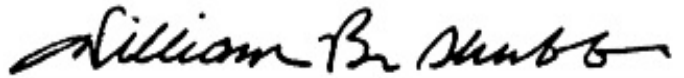
2 1. Movant's August 11, 2006 motion is granted;

3 2. This court's order filed April 11, 2006 is vacated;

4 3. The Clerk of the Court is directed to serve on movant a copy of the findings
5 and recommendations filed March 24 2006; and

6 4. Movant is granted a period of twenty days in which to file objections to the
7 March 24, 2006 findings and recommendations.

8 DATED: September 16, 2006

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11 WILLIAM B. SHUBB
12 UNITED STATES DISTRICT JUDGE
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